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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 1307/2001

DIVINE UNITED ORGANISATION ..... Plaintiff

Through: Mr. Samrat Nigam, Adv.

Versus

REGISTRAR (SOUTH) & ANR. ..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **10.11.2016**

1. This suit was filed under Section 77 of the Registration Act, 1908 with respect to the refusal of the Sub Registrar to whom a document was presented for registration to register the same and the dismissal of the appeal preferred by the plaintiff against the said refusal to the Registrar under the Registration Act.

2. The suit was entertained and pleadings completed.

3. The document which was presented for registration was a lease deed of an agricultural land by the Gaon Sabha, Shahpur in favour of the plaintiff. The plaintiff, in the plaint, has merely pleaded having come into possession of the land and having remained in possession of the land for long and having represented to the Gaon Sabha for grant of lease and which was ultimately agreed to by the Gaon Sabha during the course of legal proceedings preceding the present suit and in pursuance whereto the document is stated to have been executed and presented for registration.

4. The document was not registered by the Sub Registrar because the Gaon Sabha, by the time the document was presented for registration, stood

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Certify that the digital file and physical file have been compared and the digital data is as per the physical file and no page is missing.

superseded and the Block Development Officer who had taken over the functions of the Gaon Sabha informing the Sub Registrar that the document be not registered.

5. On 22nd February, 2006 when the suit was listed before the Court, none appeared for the plaintiff. The counsel for the defendants Sub-Registrar and Registrar informed the Court on that date that the plaintiff had filed W.P.(C) No.40/2001 impugning the action of reneging from lease and cancelling the allotment earlier made in favour of the plaintiff and which writ petition was pending consideration and the question of registration would arise only if the plaintiff succeeded in that writ petition and in which eventuality the defendants would abide by the order in the writ petition. Recording the aforesaid statement of the counsel for the defendants, the suit, on 22nd February, 2006, was disposed of.

6. The plaintiff filed Review Application No.19/2006.

7. Accepting the contention of the plaintiff that upon failure of the plaintiff/review petitioner to appear before the court on 22nd February, 2006 the suit could at best have been dismissed in default and not disposed of as done, without going into the merits of the submissions of the counsel for the plaintiff, the review petition was allowed on 4th February, 2009 and the suit restored to its original position.

8. However on the very next date i.e. 27th April, 2009 the plaintiff itself sought adjournment of the suit *sine die* awaiting the outcome of the writ petition aforesaid and the proceedings in the suit were so adjourned *sine die* with liberty to the parties to apply for revival as and when need arose.

9. Neither party applied for revival and the Registry of this court of its own listed the suit on 14th October, 2015 and whereafter it is being adjourned.

10. On 8th November, 2016 the counsel for the plaintiff again sought adjournment of the suit *sine die* contending that the proceedings before the Division Bench were still pending. However the same was refused and the matter posted for today for hearing.

11. I have today enquired from the counsel for the plaintiff, as to how the present suit is maintainable. It has been enquired, that once the executant of the document has taken such a stand, whether the Sub-Registrar or Registrar were empowered to direct registration of the document, inasmuch as the Sub Registrar and the Registrar under the provisions of the Registration Act are not empowered to adjudicate such question. The remedy of the plaintiff in such a situation would only be to file a suit for specific performance and which has not been filed. If at all the plaintiff is entitled to any relief, that can be only in the writ petition which the plaintiff claims to have preferred and thus the present suit, in my opinion, was not maintainable on its inception.

12. The counsel for the plaintiff withdraws the suit in view of the order dated 22nd February, 2006.

13. Dismissed as withdrawn.

No costs.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 10, 2016
Bs/pp..